

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 8047

BILL NUMBER: SB 545

DATE PREPARED: Feb 1, 2001

BILL AMENDED:

SUBJECT: Powerplant Certification and Siting.

FISCAL ANALYST: John Parkey

PHONE NUMBER: 232-9854

FUNDS AFFECTED:

X

**GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill defines "facility" to mean a powerplant that:

- (1) generates electricity for the wholesale or retail market; and
- (2) has a generating capacity of at least 25 megawatts.

This bill prohibits a person from constructing a facility without first obtaining a siting certificate from the Indiana Utility Regulatory Commission (IURC). The bill allows the IURC to order an independent study on the environmental impact of the proposed facility. The bill requires the applicant for a siting certificate to submit a fee of \$50,000 to be applied toward the cost of any environmental study ordered by the IURC. The bill allows local zoning and planning officials to petition the IURC for zoning jurisdiction over the siting of a proposed facility. The bill requires the IURC to hold a hearing on all applications for siting certificates. The bill specifies the conditions that an applicant must meet before the IURC may grant a siting certificate. The bill requires the holder of a siting certificate to obtain an amended siting certificate if the holder makes certain alterations to the facility or the operation of the facility. It also requires a certificate holder to construct, operate, and maintain the facility in accordance with the certificate. The bill allows the IURC to monitor a facility for compliance.

Effective Date: Upon passage.

Explanation of State Expenditures: This bill prohibits the construction, or significant alteration, of an electric powerplant without a certificate issued by the Indiana Utility Regulatory Commission (IURC). Upon receipt of an application for a siting certificate, the bill requires the IURC to conduct a hearing with the affected parties, local zoning or planning authorities, and the Office of the Utility Consumer Counselor.

After the hearing and upon reviewing the evidence and testimony, the Commissioner could only issue the certificate if the following are found:

- 1) the facility meets the Commission's requirements for a certificate of public convenience and

necessity,

- 2) the operators submit plans for obtaining required licenses and permits,
- 3) the proposed site is preferred among other options,
- 4) the construction of the facility is in the public interest,
- 5) the operators are willing to operate the facility as required, and
- 6) the operators provide proof of financial responsibility for the eventual closure of the facility.

Unless the Commission grants a petition to transfer the siting certification to local officials or if local officials determine that the site does not comply with local zoning standards, the Commission's authority supercedes that of any local entity with respect to the powerplant's design, configurations, constructions, location, and use.

The bill also would allow the Commission to monitor a certified facility for compliance with the terms and conditions of the siting certificate.

Depending on the number of facilities that seek certification, this bill is expected to increase the administrative costs of the IURC. In addition to these administrative costs, the IURC may also experience additional costs if the siting fee paid (see Explanation of State Revenues, below) is not sufficient to cover the costs of any required independent environmental studies.

Explanation of State Revenues: *Siting Fee:* The bill allows the IURC to order an independent study to assess the effect of a proposed powerplant on the environment. For that purpose, the Commission may charge an applicant \$50,000 for the cost of the study. If the study is less than \$50,000, any remaining revenue is to be returned to the applicant.

Penalty Provision: A person who begins to construct or operate a facility without obtaining the required certificate from the IURC would be liable for a civil penalty up to \$25,000 for each violation and each day the violation continues. Any collected penalty would be deposited into the Public Utility Fund which is used for the operation of the IURC and the OUCC. It is not known in how many instances the IURC would impose monetary penalties.

The Indiana Utility Regulatory Commission and the Office of the Utility Consumer Counselor are funded by public utilities. The annual fee charged to utilities is based on the budgets of these two agencies. At the end of the fiscal year, if the total public utility fees in the Public Utility Fund plus the unspent balance of the Fund exceeds the total appropriations for the IURC and the OUCC (plus a \$250,000 contingency fund), then the IURC must compute each utility's share of the excess. This share is then deducted from any subsequent payment of the utility's public utility fees. In FY 2000, public utility fines and fees generated \$8,053,986.

Explanation of Local Expenditures: Local units of government will receive a notice of any hearings scheduled.

Explanation of Local Revenues:

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor; Indiana Department of Natural Resources; Indiana Department of Environmental Management.

Local Agencies Affected: Local units of governments.

Information Sources: Indiana Utility Regulatory Commission.